

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 25-213 (DSD/DJF)

Michael Fiorito,

Plaintiff,

v.

ORDER

Metropolitan Council; Delta
Airlines; Sun Country
Airlines,

Defendants.

This matter is before the court upon four motions of plaintiff Michael Fiorito. Three of those four motions request that the court take judicial notice of case law that Fiorito believes is relevant to the question of whether he may proceed in forma pauperis (IFP) in litigation brought in this District. See ECF Nos. 15, 18, and 19. The question of whether Fiorito may proceed IFP in this matter is largely moot, as defendants removed this matter from state court and incurred the filing fee necessary for doing so. Should the question of Fiorito's eligibility for IFP status become a live issue in this proceeding, the court will consider any relevant case law on that issue. Because that issue is not currently before the court, however, Fiorito's motions are denied.

Fiorito's final motion is a request that this matter be consolidated with a largely identical action that Fiorito brought against the same defendants. See Fiorito v. Metropolitan Council, No. 24-CV-4562 (DSD/DLM) (D. Minn.). That action has already been dismissed, and there would be no practical benefit in consolidating that dismissed action with this ongoing action. Fiorito's motion for consolidation therefore is also denied.

Finally, defendant Sun Country Airlines requests clarification regarding the court's order that defendants' responses to the complaint be filed by no later than March 26, 2025. The court's previous order was not intended to impose obligations that did not already exist under Rule 12 of the Federal Rules of Civil Procedure, but rather was intended only to lift the stay that had previously been imposed in this matter and, for sake of clarity, establish a response deadline for any parties owing a response under Rule 12. Neither this order nor the court's prior order imposes an affirmative obligation to respond if no such obligation yet exists under Rule 12.

Based on the foregoing, and all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The motions for the court to take judicial notice [ECF Nos. 15, 18, & 19] are denied; and

2. The motion for consolidation [ECF No. 16] is denied.

Dated: March 4, 2025

s/David S. Doty
David S. Doty, Judge
United States District Court